IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE, TENNESSEE

WORD MUSIC, LLC, et al.,	)	
	)	
Plaintiffs,	)	**CASE NO. 3:07-cv-0502**
	)	**JUDGE HAYNES**
v.	)	**JURY DEMAND**
	)	
PRIDDIS MUSIC, INC., et al.	)	
	)	
Defendants.	)	

DECLARATION OF RICHARD L. PRIDDIS

STATE OF UTAH)
)
COUNTY OF UTAH)

Comes now Richard L. Priddis, and after being duly sworn, declares under penalty of perjury under the laws of the United States of America, pursuant to 38 U.S.C. § 1746, that the following matters are true and correct:

1. I am over the age of 21 and competent to testify to the matters set forth in this Declaration, and I have personal knowledge of the facts stated in this Declaration.

2. I am a Defendant in the above-captioned case.

3. Contrary to the Plaintiffs assertions, the Priddis Defendants have purchased hundreds of mechanical and reprint licenses relating to the "subject works" which are at issue in this matter. See Exhibit A to Complaint. To the best of my knowledge, information and belief, the Priddis Defendants have at all times relevant to the Complaint complied with my obligations concerning licensing as they relate to the subject

Dockets.Justia.com

works. I have attached as Exhibit A to this Declaration a true and correct list of license numbers relating to the subject works. After examining exhaustively the Plaintiffs' list of subject works, and after cross-referencing to the best of my ability their list of subject works with my records kept in the ordinary course of business, I compiled Exhibit A.

4. Exhibit A attached hereto provides mechanical license numbers corresponding to the subject works and, in most cases, reprint license numbers (and/or dates of such licenses), as well. Concerning Exhibit A, where no reprint license number/date is listed, our product did not include printed lyrics for that particular song. See Exhibit A. In situations involving withdrawal or revocation of reprint licenses, it has been my business practice to discontinue the use of lyrics in conjunction with that song or to discontinue the corresponding product. Also, although not listed on Exhibit A, I have made payment arrangements to obtain a compulsory license for "I Walk the Line."

5. More specifically, the Plaintiffs' subject works include eight songs which are not part of my product catalogue and, therefore, I am uncertain as to why the Plaintiffs included them. See Exhibit A. Accordingly, I have made the following notation on Exhibit A next to those particular songs: "(not one of our songs)." See Exhibit A. Concerning the song "Lucky Star," a license was at one time available to and applied for by the Priddis Defendants through the Harry Fox Agency (transaction number TRX 70462898 and TRX 70469125). Also, the Priddis Defendants have a

mechanical license through the Harry Fox Agency for the composition "When It's Over" (license numbers 1072246021 and 1072483613).

6. In addition, the Plaintiffs have included five songs as part of the subject works which are in the public domain, and I have designated these compositions as such. See Exhibit A. Also, upon examining the subject works, I noticed two compositions, "Begin the Beguine (Version 2)" and "You're the Top (Version 2)." As I am aware of only one version within my catalogue relating to each of these specific compositions, and am uncertain as to what the designation "Version 2" means, I have listed corresponding license numbers to "Begin the Beguine" and "You're the Top." See Exhibit A.

7. Via a written agreement with the Mechanical Copyright Protection Society (hereinafter the "MCPS Agreement" and "MCPS," where applicable), I have obtained licenses for the following songs listed as part of the subject works: "Home"; "I Need You to Love Me"; "Light of the World"; "Only Grace"; "Photograph"; "Praise You in the Storm"; and "We Belong Together." I have attached as Collective Exhibit B hereto true and correct copies of certain "cue sheets" relating to these songs, which represent my formal notification of application for license. Under the MCPS Agreement, I am required to send MCPS such notifications concerning compositions I intend to use, and I am thereafter considered licensed, unless MCPS provides written notification to the contrary. I have

regularly paid royalties under the scheme outlined within the MCPS Agreement.

8. The Plaintiffs admit the existence of the MCPS Agreement, but assert generally and without specific facts that the Priddis Defendants have acted "outside the scope" of licenses granted under the MCPS Agreement. I am perplexed by this assertion, as the Plaintiffs fail to identify any specific allegation relating to any operation outside the scope of the MCPS Agreement. I speculate, however, that the Plaintiffs imply that the licensing I obtained via the MCPS Agreement extends only to the United Kingdom. The MCPS Agreement, however, provides for world-wide rights, defining the agreement's "territory" in pertinent part as "the United Kingdom and any other countries in the world . . . ."

9. As for specific songs to which the Plaintiffs refer in their Motion, I have, contrary to their assertions, acquired licenses relating to these compositions. Specifically, concerning Exhibit A to the Declaration of Dorothy D. Gibby, I have acquired mechanical licenses through the Harry Fox Agency for the following songs: "The Prayer" - license number 1060483957; "Goodbye to You" - license numbers 1071855171, 1060465658, 1060492185 and 1071855169; "Follow Through" - license numbers 1071824986 and 1070591611; "Savin' Me" - license numbers 1072246517 and 1070591622; and "How You Remind Me" - license numbers 1071854403 and 1070591615. The web site pages attached as a part of Exhibit A to the Gibby Declaration relating to these compositions

state in pertinent part as follows: "Printed and on-screen lyrics are not included." See Exhibit A to Gibby Declaration.

10. As for the Plaintiffs' assertions contained in the Gibby Declaration stating that "ProSound is still offering on ProSing's website two of the six songs on Plaintiffs' Exhibit A to the Complaint," such statement is incorrect, as the Plaintiffs have not identified "Love's the Only House" as one of the 345 subject works. See Exhibit A to Complaint and Exhibit B to Gibby Declaration. Also, I have acquired a mechanical license (number 1060593462) through the Harry Fox Agency and a reprint license (number 36008) through the Hal Leonard Corporation relating to the composition "True Love," referred to by the Plaintiffs in Exhibit B to the Gibby Declaration. See Exhibit B to Gibby Declaration.

11. As for specific products at issue in this litigation, the Priddis Defendants' karaoke products display the text of a song's lyrics (without any additional visual image content) on a video screen against a static blue background in timed relation to music recordings. In order to "cue" the karaoke performer, the displayed lyric text changes color from white to yellow as the music plays. Although I do not believe that the law requires synchronization licenses in relation to such karaoke products, I have, however, purchased various synchronization licenses for certain compositions among the subject works.

12. Concerning the Plaintiffs' assertions that I communicated to them in response to a January 31, 2007 cease and desist letter that I had "ceased all

infringing activities," I have never represented to the Plaintiffs that the Priddis Defendants' activities are infringing on the Plaintiffs' copyrights. The faxed correspondence upon which the Plaintiffs rely in making such assertions does not contain admissions of infringing activity but, rather, informs counsel for the Plaintiffs concerning business decisions I chose to make. See Exhibit C to Supplemental Declaration of Paul Harrison Stacey.

Further Deponent Saith Not.

Richard L. Priddis

Sworn to and subscribed before me this 17th day of July, 2007.

Lisa Sorrells

Notary Public

My Commission Expires: 2. 6. 2010

LISA SORRELLS
NOTARY PUBLIC • STATE of UTAH
475 EAST STATE ROAD
PL.GROVE, UT 84062
COMM. EXPIRES 2-6-2010